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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/556,157	04/21/2000	Thomas Leoutsakos	TL-1	6306

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EXAMINER

SANTOS, ROBERT G

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 02/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/556,157

Applicant(s)

LEOUTSAKOS, THOMAS

Examiner

Robert G. Santos

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 21-35 is/are rejected.
- 7) ☒ Claim(s) 17-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office action is responsive to the Board Decision filed on November 5, 2003; prosecution of the application has been reopened since it is considered that other cited prior art references disclose the limitations recited in Applicant's claims.

Claim Objections

1. Claim 21 is objected to because of the following informalities: In line 2, the third instance of the term "a" should be changed to --said--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 11-15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The phrase "expanding said rest member" as recited in claims 11, 12, and 15 is rendered indefinite since the rest member is defined as a platform on page 3 of the specification.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 5, 9-11, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Murphy '910. Murphy '910 shows the claimed limitations of an apparatus for supporting a body part, comprising: a rest member (37, 65) for the body part; an expandable member (42) associated with the rest member; and means for expanding (16) the expandable member upwardly and forwardly with the body part on the rest member (as described in column 3, lines 21-26 and in column 4, lines 22-30). As concerns claim 2, the reference discloses the use of an auxiliary surface (12, 12a) associated therewith. With regards to claim 5, the reference is considered to show a condition wherein the rest member (37, 65) is a platform (see Figures 2 & 3). As concerns claim 9, the reference discloses a condition wherein the means for expanding (26) includes means for inflating the expandable member (as described in column 2, lines 32-33) and further including a safety guard (72, 72a) therefor. With regards to claim 10, the reference is considered to show a condition wherein the means for inflating comprises a compressor (as described in column 2, lines 32-33 and in column 4, lines 22-25).

As concerns claim 11, the reference discloses the steps of positioning a body part on a rest member (37, 42, 65); expanding the rest member to an inclined elevation with the body part supported thereon; and transferring the body part from the rest member (as described in column 3, lines 21-26 and in column 4, lines 22-30). With regards to claim 15, the reference is

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considered to disclose the step of expanding the rest member by a compressor in column 2, lines 32-33 and in column 4, lines 22-25.

6. Claims 1-5, 11-14, and 21-35 are rejected under 35 U.S.C. 102(b) as being anticipated by Cox '328. Cox '328 shows the claimed limitations of an apparatus (1) for supporting a body part, comprising: a rest member (63, 64) for the body part; an expandable member (25, 25A, 26, 26A) associated with the rest member; and means for expanding (97, 97A, 100, 100A, 103, 103A, 104, 104A, 105, 105A, 106, & 106A) the expandable member upwardly and forwardly with the body part on the rest member (as described in column 2, lines 18-22 and in column 5, lines 44-56). As concerns claim 2, the reference discloses the use of an auxiliary surface (2) associated therewith. As concerns claims 3 and 4, the reference is considered to show a condition wherein the body part is either a foot or an arm in Figure 1. With regards to claim 5, the reference is considered to show a condition wherein the rest member (63, 64) is a platform (see Figures 1, 2, 4, & 8).

As concerns claim 11, the reference discloses the steps of positioning a body part on a rest member (25, 25A, 26, 26A, 63, 64); expanding the rest member to an inclined elevation with the body part supported thereon; and transferring the body part from the rest member (as described in column 1, lines 41-45). With regards to claim 12, the reference is considered to show the step of expanding the rest member in association with a bed (2) in Figure 1 and in column 2, lines 58-60. As concerns claims 13 and 14, the reference also discloses the condition wherein the positioning step includes positioning a foot or an arm on the rest member in column 2, lines 18-22.

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As concerns claim 21, the reference shows the claimed limitations of a system for assisting a person having a lower limb into adopting a reclined position from a sitting position (as described in column 1, lines 41-45), comprising a surface (2) upon which the person is to recline; and means for transferring (43, 65, 66) the person to the surface, comprising means for elevating (26, 26A) the lower limb of the person to a level permitting the transfer of the person to the surface with the lower limb in a reclined position (as described in column 7, lines 8-20 and as shown in Figure 1). As concerns claims 22 and 23, the reference is considered to show conditions wherein the surface comprises a bed (2) and wherein the bed includes a mattress in Figure 1 and in column 2, lines 59-60. With regards to claim 24, the reference discloses a condition wherein the means for transferring is positioned on a platform (33, 63, 64). As concerns claim 25, the reference is considered to show a support (66) for the lower limb in Figure 1. With regards to claims 26 and 27, the reference discloses the use of means for elevating (26, 26A) the support (66) with respect to the platform (33, 63, 64), wherein the means for elevating also permits the transfer of the lower limb to the surface (2) (as shown in Figure 1). As concerns claim 28, the reference is considered to show a condition wherein the support (66) is depressible to the vicinity of the platform (33, 63, 64) after the lower limb has been transferred in column 5, lines 44-56 and in Figure 8. With regards to claims 29 and 30, the reference discloses conditions wherein the elevating means (26, 26A) is switch-actuatable (100A) and is selected from the class of manually and automatically powered devices (see column 6, lines 54-57 & 65-68; column 7, lines 1-3; and Figures 7 & 8).

As concerns claim 31, the reference also discloses the steps of positioning a seated person's lower limb on means for elevating (26, 64) the lower limb; elevating the lower limb

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with the person remaining seated (as described in column 1, lines 41-45); and transferring the elevated lower limb to an elevated surface (2) (as described in column 7, lines 8-20 and as shown in Figure 1). With regards to claim 32, the reference is considered to show a condition wherein the means for elevating the lower limb adjoins the elevated surface in Figure 1. As concerns claims 33, the reference discloses a condition wherein the person is wheeled (by elements 6) to the means for elevating the lower limb and the foot of the lower limb is positioned thereon in column 1, lines 41-45; column 7, lines 8-20; and in Figure 1. With regards to claim 34, the reference is considered to show a condition wherein the lower limb is elevated to substantially the level of the elevated surface in Figure 1. As concerns claim 35, the reference is considered to show a condition wherein the lower limb is transferred to the elevated surface such that the person can adopt a reclined position in column 7, lines 8-20 and in Figure 1.

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1, 2, 5, 7, 11, and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Stewart et al. '188. Stewart et al. '188 shows the claimed limitations of an apparatus for supporting a body part, comprising: a rest member for the body part (14); an expandable member (16, 20) associated with the rest member; and means for expanding (18, 19) the expandable member upwardly and forwardly (as described in column 3, lines 61-64 and as

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shown in Figures 1 & 2) with the body part on the rest member (as noted in column 3, lines 45-47). As concerns claim 2, the reference discloses the use of an auxiliary surface (the chair as described in column 2, lines 58-60 and as shown in Figure 1) associated therewith. With regards to claim 5, the reference is considered to show a condition wherein the rest member (14) is a platform in Figures 1-4 and in column 3, lines 13-16. As concerns claim 7, the reference is considered to show a condition wherein the expandable member (16, 20) is selected from the class consisting of bellows and scissors mechanisms in Figures 1-4 and in column 2, lines 65-66.

As concerns claim 11, the reference discloses the steps of positioning a body part on a rest member (14, 16, 20); expanding the rest member to an inclined elevation with the body part supported thereon; and transferring the body part from the rest member (see column 3, lines 45-47 & 61-64 and in column 5, lines 23-25). With regards to claim 15, the reference is considered to disclose the step of expanding the rest member by a compressor (18) in column 5, lines 7-11.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 6 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy '910 in view of Johnson '070. Murphy '910 does not specifically disclose a condition wherein the platform is configured to the body part. Johnson '070 provides the basic teaching of an apparatus (C) for supporting a body part which is configured to the body part. The skilled artisan

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would have found it obvious at the time the invention was made to provide the apparatus of Murphy '910 with a platform configured to the body part in order to provide enhanced user comfort and support.

11. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stewart et al. '188 in view of Murphy '910. Stewart et al. '188 do not specifically disclose a condition wherein the expandable member is *adhered* to the platform. Murphy '910 provides the basic teaching of a support apparatus (10) comprising an expandable member (42) adhered to a platform (37) (see column 3, lines 10-20). The skilled artisan would have found it obvious at the time the invention was made to provide the apparatus of Stewart et al. '188 with an expandable member adhered to the platform in order to ensure further that the expandable member is secured in proper position relative to the platform.

Allowable Subject Matter

12. Claims 17-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

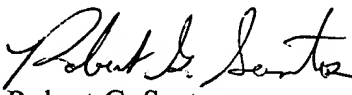
13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rinne et al. '949, Garman et al. '545, Wu '762, Kunz et al. '110, Vanzant '957, Schwarz-Zöhrer '569, Vanzant '433, and Walker '522.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert G. Santos whose telephone number is (703) 308-7469. The examiner can normally be reached on Tu-Fr and first Mondays, 10:30 a.m. to 8:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Robert G. Santos
Primary Examiner
Art Unit 3673

R.S.
February 18, 2004